



ఆంధ్రప్రదేశ్ రాజపత్రము

THE ANDHRA PRADESH GAZETTE

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AMARAVATI, TUESDAY, APRIL 16, 2019

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PART II - MISCELLANEOUS NOTIFICATIONS OF INTEREST TO THE PUBLIC

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NOTIFICATIONS BY HEADS OF DEPARTMENTS Etc.,

ADDITIONAL COMMANDANT, 16TH BN. APSP., VSP

FAC OF COMMANDANT, 5TH BN. APSP., VIZIANGARAM

5TH BN. APSP VZM:- Sri ETHALAPAKA SIVA PRASAD, PC 139 (U/s) OF 'HQ' COMPANY OF 'HQ' COMPANY OF THIS UNIT INVOLVED IN CRIMINAL CASE IN Cr.No. 39/2016 U/s 392, 170 & 171 IPC OF ANANDAPURAM P.S, - O.E COMPLETED - PROVED MINUTES COMMUNICATED - NO FURTHER EXPLANATION (FWSD) RECEIVED AND HIS WHEREABOUTS UN KNOWN - FINAL ORDERS ('REMOVED FROM THE SERVICE').

Ref : 1) This Office Charge Memo even No. Dated: 24.07.2016.

2) Explanation dated: 09.08.2016 of Sri Ethalapaka Siva Prasad, PC 139 (U/S) of 'HQ' Company of this unit.

3) This office orders even no. Dtd: 30.08.2016 (appointment of E.O)

4) Letter C.No. 18/AC-1/A&C/2016, Dated: 24.09.2016 Sri M.B.V.V.Satyanarayana, Asst. Commandant of this unit.

5) This office memo even No. Dtd: 05.10.2016 appointment of successor E.O Sri G.V. Prabhakara Rao, Asst. Commandant, 5th Bn. APSP. Vizianagaram.

6) Letter C.No. 21/AC-2/E&F/OE-2/2017, Dated: 01.03.2017 Sri G.V. Prabhakara Rao, Asst. Commandant, 5th. Bn. APSP. Vizianagaram.

7) This office showcause notice Dtd: 05.03.2017.

8) Representation of Sri E.Siva Prasad, PC 139 (U/S) of 'HQ' Coy. Dt: 21.03.2017.

9) This office memo even no. Dtd: 14.03.2018 & 11.5.2018.

10) Copy of Judgment in C.C.No. 174/2017 (Old C.C.No. 139/2017) Dtd: 30.01.2018 pronounced by the IV Metropolitan Magistrate, Bheemunipatnam, Visakhapatnam.

C.No.23/OEPR/A2/2016,- Sri Ethalapaka Siva Prasad, PC 139 (U/S) of 'HQ' Company of this unit was framed with the article of charge under rule 20 of APCS (CC&A) Rules 1991 for the following delinquency.

"That, it was came to the notice of the undersigned that Inspector of Police, Anandapuram P.S, Visakhapatnam City has submitted a report vide letter C.No. Nil, Dated: 02.05.2016 stating that Sri Murala Bhargav Kumar S/o Krishna Murthy, 21 years Benturai, R/o D.No. 20-195, Golla Narayananapuram, Simhachalam, Visakhapatnam City has filed a case on 13.03.2016 at about 23.00 Hr's informing that he is studying B.Tech, ECE Group final year at VITAM Eng. College at Mindivanipalem, Anandapuram. On 13.03.2016 evening around 6 p.m he and sravan kumar moved on his bajaj pulsar motor cycle bearing No. AP31 CK 4964 and went to Sattaruvu Junction and when they both were chitchatting each other at a vacant layout situated at a distance to Sattaruvu Junction, two persons, of them one person was dressed in Police Uniform and other person being rider of motor cycle was in civil dress came on a splendor motor cycle questioned them what where they doing there? He and his friend Sravan replied that they were chitchatting there. The two unknown person asked them to show records in respect of his bike. Then he showed them his Registration Certificate of his motor cycle and the two persons kept his R.C with them beat them with hands, robbed Rs. 300/- from his friend Sravan Kumar, Rs. 500/- from his purse, his Micromax Yuraka Cell Phone and his gold ring wg. 1/4 tola by putting them in fear of death and fled away on their motor cycle. Then he and Sravan Kumar went to his house and informed the matter to his family members and they can identify both the person who committed robbery. Basing on the above report of the complaint, Inspector of Police, Anandapuram P.S, Visakhapatnam City has registered a case in Cr.No. 39/2016 u/s 392, 170 & 171 IPC of Anandapuram P.S and later he arrested Sri Eethalapaka Siva Prasad PC 139 (u/s) of 5th Bn. APSP., and one civilian Pasala Atchyutaraao on 14.03.2016 at 18.30 Hr's and recovered the part of stolen property and sent them for judicial remand. The PC 139 was involved in the said Criminal Case while he is under suspension in another case. Sri M.B.V.V.Satyanarayana, Asst. Cmt. has conducted Preliminary Enquiry and submitted his report vide C.No. 18/AC-1/A&C/2016, Dated: 07.06.2016. The above act of PC 139 is highly in disciplined, irregular and not tolerable in the disciplined force. The above PC has grossly failed to inform about his involvement in criminal cases and suppressed the issues and kept silent which is not correct.

He had acknowledged the charge memo on 29.07.2016 and submitted his explanation Dated: 09.08.2016 which was received in this office on 12.08.2016 wherein he stated that "he did not commit the alleged crime, but the police created false testimony and framed above offence. Finally he requested to conduct elaborate O.E to prove innocence".

Accordingly, the disciplinary authority has appointed Sri M.B.V.V. Satyanarayana, Asst. Commandant as Inquiry Authority vide this office orders 3rd cited. Later, Sri G.V.Prabhakararao, Assistant Commandant was appointed as a successor Inquiry

authority and Sri N.V. Ramana, R.I was appointed as presenting officer to conduct Oral Enquiry against the charged officer to elicit the charges framed against the above charged officer. Accordingly, the Enquiry Officer has completed the Oral Enquiry by examining the four (04) prosecution witnesses and submitted his findings in the shape of minutes duly holding the charges against the delinquent as “**PROVED**” vide reference 6th cited and the same was communicated to the above delinquent PC vide reference 7th cited for offering his further explanation and he acknowledged the same on 10.03.2017.

Having acknowledged the minutes, the delinquent PC has submitted his representation Dtd. 21.03.2017, stating that, the article of charges framed against him were Proved in the departmental Oral Inquiry, but, a Case which was register against him is under trail in IV M.M. Court, Bheemunipatnam and as and when the court pronounced final judgment, he would submit his further written statement of defense.

Finally, the Criminal Case which was under trail in IV M.M. Court, Bheemunipatnam, has been completed and the Judgment was pronounced by the IV M.M. Court, Bheemunipatnam on 30.01.2018. But, the above delinquent PC did not submit his further written statement of defense as committed in his representation earlier and he has not been available in Bn. HQrs. and left the Bn. HQrs. without any permission as per the Rule 53 of A.P. Fundamental Rules. Finally, he was also given an opportunity to submit his further written statement of defense by giving reminders 9th cited.

I have gone through the entire OE PR file as well as minutes of the enquiry officer. The criminal case against the delinquent officer ended in acquittal u/s 248(1) Cr.P.C. This clears the way for deciding the departmental enquiry.

On 13.03.2016 at about 06.00 P.M. the charged officer along with one civilian robbed 1/4 tula Gold, Rs. 800/- cash and mobile phone and R.C (2 Wheeler) from one Sri M. Bhargav Kumar college student near a lay out Satharavu Junction and his friend Sravan Kumar by putting them in fear of death. Basing on the complaint of Sri M. Bhargav Kumar, the Inspector of Police, Anandapuram, P.S searched and caught hold the charged officer on the next day of offence i.e, on 14.03.2016 and recovered the stolen items from the delinquent officer along with Khaki Uniform and Belt. He confused his robbery act in front of police. Sri M. Bhargav Kumar and his friend Sravan Kumar have identified the charged officer PC 139 on 20.04.2016 during the identification parade conducted at Central Jail, Visakhapatnam where he was kept in remand.

Further, the departmental enquiry was proved the charges framed against the charged officer by examining all the witnesses. I examined relevant documents and came to the conclusion that the charged made out in the articles of charges are correct. Initially, the charged officer Sri E. Siva Prasad, PC 139 (U/s) has confessed his robbery act. Later, a criminal case vide Cr.No. 39/2016 u/s 392,170 & 171 IPC of Anandapuram P.S was registered. All statements of the witnesses speak about the guilt of the Charged

officer and the departmental enquiry conducted by Sri G.V.Prabhakararao, Assistant Commandant was 'PROVED' beyond all reasonable doubts. In this case, the charged officer was involved in the criminal case and he was arrested and sent for remand while he was under suspension (in another case) and his suspension period is being extended in accordance with the Fundamental rules and Chief office directions. Moreover, multiple criminal cases are also pending against him for disposal.

The charged officer has miserably failed to prove his innocence during the oral enquiry and he has no defense documents or defense witness in support of his integrity. Though he acknowledged show cause notice/remainders there on, he did not submit his final written statement of defense on the 'PROVED' departmental Oral Inquiry minutes and he was not available in Bn. Hqrs. and his whereabouts are not known. Moreover, he did not inform about his involvement of Criminal case to his superior officers and suppressed the issue which is not correct and his criminal attitude was come into light when Sri M. Bhargav Kumar has made a complaint at Anandapuram P.S.

Further, I have gone through the Judgment in C.C.No. 174/2017 OLD No. C.C.No. 139/2017 pronounced by the Hon'ble IV M.M. Court, Bheemunipatnam and noticed that the non following of the provision is a major flaw which cuts at the roots of the prosecution of case. The Hon'ble court of IV Metropolitan Magistrate, Bheemunipatnam acquits the accused PC 139 because of the failure of prosecution on technical grounds and on procedural irregularities, which gives benefit in favour of accused, but, the charged officer was not made acquitted from charges leveled against him. The standards of proof and evidence received in departmental enquiry are different from the Criminal case trial. While the criminal case trial demands incontrovertible evidence beyond all reasonable doubts, a departmental enquiry is guided by preponderance of probability. In this case most of the witnesses are civilians. While the courts are constrained by Section 25 of the Indian Evidence Act no such constraint can be brought about in departmental O.E in the police department itself.

As per the chief officer circular memorandum RC.NO. 4072/Appeal-4/2011, Dtd: 04.11.2011, it was emphasis that Acquittal in Criminal Case by police personnel is not a bar for imposition of penalty. Moreover as per rule 20 of APSC (CC&A) Rules 1991 and orders 151 (2) of APPM Vol-I, it is very clear that when a Criminal Case acquits an officer on a purely technical grounds or due to hostility of witnesses or on some other facts other than misconduct, it does not prohibit the department from proceedings against him the departmental proceedings. The act of the PC 139 Sri E. Siva Prasad (U/S) damaged the image of the police in the eyes of public and demoralized the morale of APSP. Being a senior most Police Constable working in the disciplined force he has to maintain good conduct and loyalty with good discipline and to protect the law and order, but, he did not bother about the discipline, law and order and robbed Gold, cash and mobile phone from the college students by putting them in fear of death, thereby involved in a grave criminal case while in suspension. This kind of act is highly indiscipline unbelievable and highly objectionable in the Police force and it shows gross dereliction and misconduct which is highly not tolerable in the disciplined force like APSP. The enquiry officer came conclusion that the charges against PC 139 Sri E. Siva Prasad, are correct and the offence is grave. There is no ground to disbelieve the enquiry officer who has concluded and stated in the enquiry that the charged officer has been responsible for this offense/ charges.

Keeping in view of the gravity of the Criminal misconduct and discipline of the force, I deem it fit to award him with the punishment of '**REMOVAL FROM SERVICE**' with immediate effect. The suspension period from **20.12.2014 FN. to issue of these orders is treated as 'NOT ON DUTY'**.

P. MOHAN PRASAD,
Additional Commandant,
16th. Bn. APSP., Visakhapatnam,
FAC of Commandant,
5th Bn. APSP., Vizianagaram.

Dt: 06 .02.2019

To

Sri Ethalapaka Siva Prasad, PC 139 (U/S)
S/ o E. Chandra Rao,
Mamidipalli (Village)
S.Kota (Mandal)
Vizianagaram - 535148.

Commandant, 5th Bn. APSP,
Vizianagaram.

PUNISHMENT ORDER

In accordance with the orders issued in this office proceedings even. No. Dtd: 06.02.2019, Sri **Ethalapaka Siva Prasad, PC 139 (U/S)** of 'HQ' Company of this unit is awarded with the punishment of '**REMOVAL FROM SERVICE**' w.e.from the date of issue of these orders for his misconduct of involvement in Criminal case and suppressed the information.

The total period of suspension w.e.from 20.12.2014 FN. to issue of this orders is treated as 'NOT ON DUTY'.

P. MOHAN PRASAD,
Additional Commandant,
16th. Bn. APSP., VisaKapatnam,
FAC of Commandant,
5th Bn. APSP., Vizianagaram.

Dt: 06 .02.2019

To

Sri Ethalapaka Siva Prasad, PC 139 (U/S)
S/ o E. Chandra Rao,
Mamidipalli (Village)
S.Kota (Mandal)
Vizianagaram - 535148.